

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

JAMES ZUNIGA,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS;
SUZANNE R. HASTINGS; and
R&D OFFICER SULLIVAN,

Defendants.

CIVIL ACTION NO.: CV213-058

ORDER

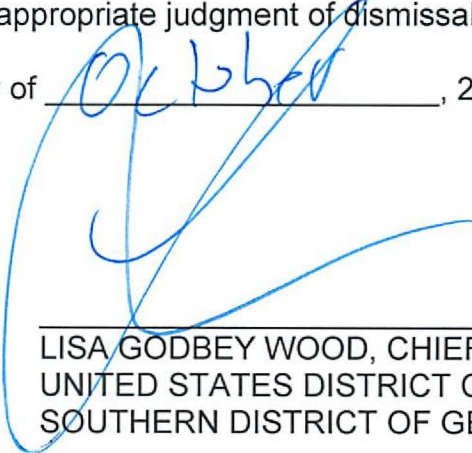
After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff seeks to file a "Second Amended Complaint, naming the United States as a defendant." (Doc. No. 11, p. 1). Plaintiff further asserts that the individually named Defendants to the current action are liable under Bivens v. Six Unknown Named agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), because Defendants "individually violated Plaintiff's Fourth and Fifth Amendment rights." (*Id.* at p. 2).

Plaintiff has been granted leave to amend his complaint in order to state a claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 1346, once before. See Doc. No. 7 (vacating Magistrate Judge's Report and Recommendation and granting Plaintiff's Motion to Amend). If Plaintiff wishes to bring an action under the FTCA, he

should file a **new** complaint naming the United States as defendant and making specific allegations of negligence based upon acts or omissions of government employees.

Plaintiff's objection concerning the viability of his Bivens claim is without merit. Plaintiff alleges Defendants have deprived him "of due process by taking and depriving Plaintiff o[f] his personal property without due process of law." (Doc. No. 8, p. 4).¹ As twice explained by the Magistrate Judge, Plaintiff has alternative means to seek redress, which precludes recover under Bivens. See Sharma v. Drug Enforcement Agency, 2013 WL 791396, *5 (11th Cir. March 4, 2013); Byrd v. Stewart, 811 F.2d 554 (11th Cir. 1987). The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Plaintiff's Complaint is **DISMISSED**, without prejudice. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 7 day of October, 2013.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ Plaintiff intends to reassert this claim in his proposed Second Amended Complaint. See Doc. No. 12-1, p. 4.